REMARKS

Claims 1-13 and 15-20 are pending in the application. The Examiner's reconsideration of the rejections is respectfully requested in view of the remarks.

Herein the Responses to the Request for Information and the rejected under 35 USC §112, second paragraph are reiterated from the previous response for completeness. The response to the rejected under 35 USC §103(a) corresponds to the above claim amendments.

Request for Information Under 37 CFR §1.105: By the Final Office Action, the Request for Information Under 37 CFR §1.105 made in the Office Action dated February 20, 2008 has been reiterated. More particularly, the Examiner has made a specific request for information relating to the conference presentation, "Accepting Bids Under Uncertain Future Demands," INFORMS Annual Meeting, Miami Florida, November 5-8, 2001. Respectfully, the previous response is believed to be responsive; materials related to the above-identified conference presentation cannot be readily obtained.

Claim 5 has been rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention.

Claim 5 recites, "estimating the likelihood comprises determining a demand forecast and comparing the demand forecast and the planned sales volume."

The Examiner suggested that the comparison is subjective and implies only a human apprehension and assessment with no guidelines in the specification as to how this assessment is

to be made. Respectfully, the claim merely recites a comparison between two values, demand forecast and sales volume plainly. Clearly, one of ordinary skill in the art would understand how to compare a demand and sales.

The Examiner further suggested that the term "estimating" in conjunction with "comparing" is vauge and indefinite and is a relative term. Respectfully, "estimating" is clearly not a relative term. Further, the specification provides substantial description related to estimating the likelihood that the demand exceeds the planned sales volume, see for example, page 15, line 14 to page 18, line 7. Since the claimed invention is directed to developing an optimal sales plan, estimates are used for future unknowns, e.g., demand. Claiming an estimate does not necessarily require that the claim is vague. Indeed, the specification provides specific exemplary embodiments for determining estimates. One of ordinary skill in the art would understand that future unknown demand cannot be determined with certainty and would understand what is meant by the claimed estimate. Reconsideration of the rejection is respectfully requested.

Claims 1-13 and 15-20 have been rejected under 35 USC §103(a) as being unpatentable over Ahmed (A Multi-Stage Stochastic Integer Programming Approach for Capacity Expansion under Uncertainty) in view of Bichler (Applications of Flexible Pricing in Business-to-Business Electronic Commerce) and further in view of Santos et al. (US 2002/0143665). The Examiner stated essentially that the combined teachings of Ahmed, Bichler and Santos teach or suggest all the limitations of Claims 1-13 and 15-20.

Claims 1, 15 and 20 are independent.

Claims 1 and 20 claim, *inter alia*, "generating a sales plan based on the likelihood and the

realized order data at each of the multiple price classes and for each of the multiple products within a current time period upon determining that the demand for the at least one of the multiple time periods exceeds the allocation for the given product at the price class; and determining an indicator based on the generated sales plan to accept an order for a given product of the multiple products upon determining that the demand exceeds the allocation for the given product at a price class in at least one of the multiple time periods." Claim 15 claims, *inter alia*, "a trigger engine determining a demand scenario is realized for a given time period and providing an indication of when to re-determine the sales plan upon determining that the demand scenario for the given time period exceeds the planned sales volume."

Ahmed teaches methods for strategic level decision making for the multi-resource capacity expansion problem (see page 1, Introduction, first sentence and page 2, Formulation, first paragraph). Ahmed does not teach or suggest "generating a sales plan based on the likelihood and the realized order data at each of the multiple price classes and for each of the multiple products within a current time period upon determining that the demand for the at least one of the multiple time periods exceeds the allocation for the given product at the price class" as claimed in Claims 1 and 20 or "a trigger engine determining a demand scenario is realized for a given time period and providing an indication of when to re-determine the sales plan upon determining that the demand scenario for the given time period exceeds the planned sales volume" as claimed in Claim 15. Ahmed's purpose is to satisfy the demand of a product family (see page 2, last 2 lines, to page 3, line 1) - Ahmed does not include a discussion of a case wherein demand exceeds supply. Therefore, Ahmed fails to teach all of the limitations of Claims 1, 15, and 20.

Bichler teaches how to set allocations and recommend prices for channels (see page 298, right col., lines 10-15). Bichler does not teach or suggest "generating a sales plan based on the likelihood and the realized order data at each of the multiple price classes and for each of the multiple products within a current time period upon determining that the demand for the at least one of the multiple time periods exceeds the allocation for the given product at the price class" as claimed in Claims 1 and 20 or "a trigger engine determining a demand scenario is realized for a given time period and providing an indication of when to re-determine the sales plan upon determining that the demand scenario for the given time period exceeds the planned sales volume" as claimed in Claim 15. Bichler teaches mechanisms for flexible pricing on the buy and sell sides (see for example, page 290, Figure 1); Bichler is silent as to recommendations about whether to accept an order based on uncertain future demand ("likelihood" in Claims 1 and 20) and re-determining a pricing based on a specific demand (when demand scenario for the given time period exceeds the planned sales volume, essentially as claimed in Claim 15). Therefore, Bichler fails to cure the deficiencies of Ahmed.

Santos teaches a method of managing product end of life; when to discontinue a product (see Abstract and paragraph [0002]). Santos does not teach or suggest a "generating a sales plan based on the likelihood and the realized order data at each of the multiple price classes and for each of the multiple products within a current time period upon determining that the demand for the at least one of the multiple time periods exceeds the allocation for the given product at the price class" as claimed in Claims 1 and 20 or "a trigger engine determining a demand scenario is realized for a given time period and providing an indication of when to re-determine the sales plan upon determining that the demand scenario for the given time period exceeds the planned sales volume" as claimed in Claim 15. Santos is specifically used for the teaching of a two stage

stochastic programming model to hedge procurement investments against demand uncertainty, and make and sell decisions (see paragraph [0078]). Santos teaches that purchase decisions frequently must be made well in advance of realization of demand. On a basic level, Santos is concerned with when to make purchases - procurement investments. The claimed invention is directed towards making sales when demand exceeds supply. While both purchases and sales typically include some notion of demand, Santos does not make a specific determination "at a time when demand exceeds a planned sales volume" as claimed. Santos decides whether to build more products (including buying materials for the products). There is no determination of whether to make a sale – Santos clearly intends to sell every item produced. Therefore, Santos does not cure the deficiencies of Ahmed and Bichler.

The combined teachings of Ahmed, Bichler and Santos teach methods for strategic level decision making in purchasing. The combined teachings of Ahmed, Bichler and Santos fail to teach or suggest a tactical level decision recommendation for sales - whether to accept an order - essentially as claimed in Claims 1, 15, and 20.

Claims 2-13 depend from Claim 1. Claims 16-19 depend from Claim 15. The dependent claims are believed to be allowable for at least the reasons given for the respective independent claims. The Examiner's reconsideration of the rejection is respectfully requested.

For the forgoing reasons, the present application, including Claims 1-13 and 15-20, is believed to be in condition for allowance. The Examiner's early and favorable action is respectfully urged.

Respectfully submitted,

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